IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1190 of 2005

Between:

Sri Dondapati Venkateswarlu, S/o. Pakeeraiah,
R/o. Pasarlapadu Village, Rentachintala Mandal, Guntur

District.

..... PETITIONER

AND

1 The District Collector, Guntur District, Guntur.
2 The Joint Collector, Guntur District, Guntur.
3 Revenue Divisional Officer, Narasaraopet, Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the orders in Appeal case No. 64/2004-S7 dt. 7-1-2005 of the 2nd respondent conforming the orders in Rc.No. 778/2004-B dt. 11-06-2004 of the 3rd respondent as contrary to law, against the principles of natural justice, arbitrary.

Counsel for the Petitioner: MR.VENKATESWARLU POSANI

Counsel for the Respondents: GP FOR REVENUE

The Court at the admission stage made the following :

ORDER:

The authorization of the petitioner in respect of his fair price shop was suspended by the 3rd respondent through his order, dated 06.07.2004. Aggrieved thereby, the petitioner preferred an appeal before the 2nd respondent, together with an application for stay. Through his order, dated 07.01.2005, the 2nd respondent rejected the application. Hence, this writ petition.

Learned counsel for the petitioner submits that the 3rd respondent suspended the authorization of the petitioner without even verifying the facts. He submits that the basis for the order is the reports of the Mandal Revenue Officer and the Deputy Tahsildar of Civil Supplies for the month of May, 2004 and though the order of suspension was passed two months thereafter, the 3rd respondent did not choose to issue notice. It is also his contention that whatever might have been the justification in suspending the authorization pending enquiry, there does not exist any basis in keeping the proceedings pending for more than six months, that too without issuing a show cause notice. He placed reliance on a judgment of a Division Bench of this Court in ***Joint Collector, Kurnool v. A.Neelima.***

Learned Government Pleader for Revenue, on the other hand, submits that the 3rd respondent could not take further steps on account of pendency of the appeal preferred by the petitioner.

A perusal of the record of this case discloses that the 3rd respondent has taken more than a month from the date of receipt of report from the Deputy Tahsildar, to pass an order of suspension pending enquiry. Suspension pending enquiry can be resorted to, only where the matter cannot brook any delay involved in issuance of show cause notice. Clause 5(4) of the A.P.State Public Distribution System Control Order, 2001 mandates that suspension as a penalty can be ordered only after conducting an enquiry and issuance of show cause notice. When the 3rd respondent took more than a month in issuing the order of suspension, it cannot be said to be such an urgent case, where show cause notice can be dispensed with.

The application for stay filed along with the appeal was rejected by the 2nd respondent after several months. It needs to be noticed that the very appeal was against the order of suspension pending enquiry and the delay in disposal of the application for stay has virtually defeated the very purpose of filing of the appeal.

In **A.Neelima**'s case (1 supra), this Court took the view that an order of suspension cannot be kept in force indefinitely without concluding the enquiry. Three months was held to be a reasonable period, for finalizing the proceedings, except where the delay is attributable to the dealer. In the instant case, it is stated that the 3rd respondent has not even issued show cause notice, much less concluded the enquiry, though six months elapsed.

For the foregoing reasons, the writ petition is allowed and the order of suspension, dated 06.07.2004 passed by the 3rd respondent, is set aside and the petitioner shall be entitled to function as fair price shop dealer. Since the order of suspension is set aside, it shall not be necessary for the 2nd respondent to pass any order in the appeal. The 3rd respondent shall take further steps in the proceedings initiated against the petitioner and conclude the same in accordance with law. There shall be no order as to costs.

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02.02.2005

Note: Issue C.C. in three days.

(B/o)

Jsu

To

1 The District Collector, Guntur District, Guntur.
2 The Joint Collector, Guntur District, Guntur.
3 Revenue Divisional Officer, Narasaraopet, Guntur District.

4 2CCs to the G.P. for Revenue, High Court Buildings,

Hyderabad. (OUT)

5 2CD copies.